

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Northern District of California

United States of America)
v.)
MARCUS BELTON,)
a/k/a Samuel Glenn, Samuel Belton III,)
Samuel Glenn III, Samuel Benton III,)

Case No.

3 13 7 1594

NJV

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 14, 2013 in the county of Alameda in the
Northern District of California, the defendant(s) violated:

Code Section
18 U.S.C. 922(g)(1)

Offense Description
Felon in Possession of a Firearm

Max Penalties:

- Imprisonment: Maximum 10 years
- Supervised release: Maximum 3-year Term
- Fine: \$250,000
- Special assessment: \$100 mandatory
- Criminal Forfeiture

This criminal complaint is based on these facts:

See attached AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT of ATF Task Force Officer Vinton Johnson.

☐ Continued on the attached sheet.

APPROVED AS TO FORM

SAUSA MANISH KUMAR
SAUSA MANISH KUMAR

Vinton Johnson
Complainant's signature
Vinton Johnson
Printed name and title

Sworn to before me and signed in my presence.

Date: 12/26/13

Judge's signature
Judge's signature

City and state: San Francisco, California

Honorable Magistrate Judge Nandor J. Vadas
Printed name and title

AFFIDAVIT OF VINTON W. JOHNSON JR.

I, Vinton W. Johnson Jr., after being duly sworn, depose and say as follows:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint and arrest warrant charging Marcus Belton with possessing a firearm, in violation of 18 U.S.C. § 922(g)(1). The facts set forth in this affidavit are based on my review of written reports, my personal observations, my training and experience, and information from other law enforcement officials. These facts are not all of the facts related to this investigation that I know. I have set forth those facts that I believe are sufficient to establish probable cause that Marcus Belton committed the aforementioned offense.

II. AGENT'S BACKGROUND

2. I am employed by the Oakland Police Department as a Police Officer and have been so employed since July 10, 1992. I am currently assigned to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in Oakland, California as a Task Force Officer. I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with authority to execute arrest and search warrants on behalf of the United States. Included in my duties is the enforcement of all laws related to illegal possession of firearms. I have received law enforcement training throughout my employment. I have been a Police Officer for the Oakland Police Department for over 21 years. While working at the Oakland Police Department, I was assigned to the Criminal Investigation Division as an investigator from May 2012 to present. I was also assigned to the Traffic Division from July 2005 to July 2007 as a Fatal Accident Investigator. From 1999 to 2002, I was assigned to several Crime Prevention Teams focused on open air drug markets and undercover operations. As part of the Criminal Investigation and Traffic Divisions, my primary responsibilities involved the enforcement of the Penal Code and Vehicle Code laws of the State of California, along with various provisions of the Business and Professions Code and Health and Safety laws. During my employment, I have participated in dozens of firearms investigations and arrests and spent time discussing them with other law enforcement officers.

III. APPLICABLE LAW

2. Title 18 U.S.C. § 922(g)(1) provides that “[i]t shall be unlawful for ... any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year[,] ... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition”

IV. FACTS ESTABLISHING PROBABLE CAUSE

3. At approximately 5:30 p.m. on October 14, 2013, officers assigned to Crime Prevention Team #5 of the Oakland Police Department (OPD) were observing the 8400 block of International Boulevard. The area is one of several areas known for narcotics activity and gun violence in Oakland.

4. OPD Officer P. Phan positioned himself so had an unobstructed view of the north and south sides of the block. At 5:45 p.m., Officer Phan observed the defendant Marcus Belton standing in front of 8422 International Boulevard. Belton was walking back and forth interacting with passing citizens. A few minutes into the surveillance, Belton spoke with a black male, later identified as Alfred Beals. Officer Phan observed Beals give Belton an unknown amount of currency, which Belton placed in his right pants pocket. Belton walked to the right front passenger side of a blue Toyota Corolla, sat in the right front passenger seat, and closed the door. Belton could be seen looking for items inside the vehicle.

5. Belton then exited the vehicle and walked directly to Beals. Officer Phan observed Belton hand Beals a clear plastic bag containing a green, leafy-like substance of suspected marijuana. Beals rode away on his bicycle in a westbound direction. Officer Phan observed Beals place the suspected marijuana in his left front pants pocket.

6. Based on Officer Phan’s training and experience, he believed a transaction for drugs had just occurred between Belton and Beals. Officer Phan provided a description of Beals to an arrest team and directed them to detain Beals for possession of marijuana.

7. The arrest team stopped Beals and located a single clear plastic baggie containing suspected marijuana from his left front pants pocket. Beals was cited by the officers and released.

8. Officer Phan continued to monitor Belton for additional drug transactions.

Officer Phan observed another black male wearing a black puff coat and black jeans approach Belton. Belton got into the right front passenger seat of the vehicle. The suspect crouched just outside the passenger door and began speaking with Belton. The suspect handed Belton an unknown amount of currency. Belton then exited the vehicle and placed a small object in the suspect's left palm. The suspect immediately placed the small object in his mouth and departed. Based on his training and experience, Officer Phan believed a second drug transaction had just taken place between Belton and the suspect.

9. Officer Phan directed the arrest team to take Belton into custody. Members of the arrest team encountered Belton in the passenger seat of the vehicle. The officers observed Belton make a throwing motion towards the left rear passenger area of the vehicle. One of the officers ordered Belton to exit the vehicle in order to handcuff him. Belton locked his arms in an attempt to prevent the officer from handcuffing him. With a second officer's assistance, Belton was handcuffed without further resistance.

10. One of the officers conducted a search of Belton and discovered a loaded Taurus pistol, serial number NCN906, in his left waistband, positioned for a left-hand draw. The magazine was loaded with 11 rounds of .45-caliber ammunition. The officers found a large wad of currency in Belton's pants pockets, a cellphone, and a clear plastic baggie containing suspected marijuana.

11. The officers searched the vehicle. On the left rear passenger floorboard, toward which Belton had been earlier observed making a throwing motion, the officers found a bag containing a large quantity of suspected cocaine base, a large quantity of suspected cocaine hydrochloride, multiple pills of suspected MDMA (methylenedioxymethamphetamine), and a small quantity of marijuana. The bag also contained an additional magazine containing live rounds that fit the pistol recovered from Belton, as well as drug-related paraphernalia such as balloons, sandwich bags, cutting agents, and a digital scale.

12. I have consulted with ATF Special Agent Thomas Cleary, an interstate nexus expert, who advised me that if the firearm described above was received or possessed in the State of California, it necessarily traveled in foreign commerce because Taurus firearms are manufactured in Brazil.

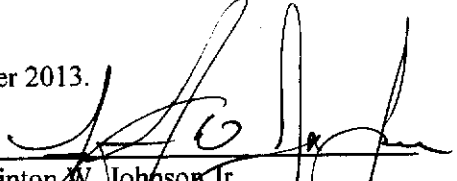
13. I have reviewed Belton's criminal history and determined that he has multiple

felony convictions, including 2007 convictions for the possession of cocaine base for sale, in violation of California Health & Safety Code § 11351.5, and for being a felon in possession of a firearm, in violation of California Penal Code § 12021.

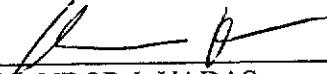
V. CONCLUSION

14. Based on the foregoing facts, my training and experience, and consultation with other law enforcement agents with experience in criminal investigations, I believe MARCUS BELTON, on or about October 14, 2013, in the Northern District of California, was a felon unlawfully possessing a loaded handgun, in violation of 18 U.S.C. § 922(g)(1).

DATED this 26th day of December 2013.


Vinton W. Johnson Jr
Task Force Officer
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Subscribed and sworn to before me this 26 day of December 2013.


NANDOR J. VADAS
United States Magistrate Judge